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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12 OSCAR GATES,

13 Petitioner,

14 v.

15 KEVIN CHAPPELL,

16 Warden of San Quentin State Prison,

17 Respondent.

No. C 88-2779 WHA

**DEATH-PENALTY CASE**

**ORDER**

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Petitioner is a condemned inmate at San Quentin State Prison. Although he is represented by counsel, petitioner has recently filed a motion *in propria persona* and without the assistance of counsel. See Docket #662, filed January 2, 2014. In this motion, petitioner objects to any transfer for a psychiatric evaluation, and also moves to disqualify his counsel and represent himself in these habeas proceedings.

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Per an Order filed December 20, 2013, this Court denied without prejudice the motion for transfer and restoration filed by petitioner's counsel. Accordingly, petitioner's opposition to transfer is currently moot.

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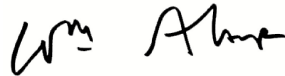
The Court also DENIES petitioner's motion to disqualify counsel and proceed *in propria persona*. The right to self-representation does not extend to post-conviction proceedings. *Martinez v. Court of Appeal of California*, 528 U.S. 152, 163 (2000); *Tamalini v. Stewart*, 249 F.

1 3d 895, 901-902 (9th Cir. 2001). The Court, exercising its discretion, finds that self-  
2 representation would not be in petitioner's best interests. Petitioner is currently represented by  
3 experienced counsel with the advantage of skill, training and ability. Procedural rules would not  
4 be relaxed if petitioner represented himself, and no assistance can be rendered by the Court.  
5 Self-representation is often unwise, and considering the complexity of capital habeas litigation,  
6 and the fact that petitioner has been adjudicated incompetent, would likely be detrimental to  
7 petitioner.

8 Additionally, within fourteen (14) days of the date of this Order, counsel for petitioner is  
9 ORDERED to meet with petitioner, and subsequently file a response to the allegations made in  
10 petitioner's *pro se* motion. The Clerk of Court shall terminate all pending motions.

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12 **IT IS SO ORDERED.**

13 DATED: January 9, 2014



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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE